

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Original Filed By ECF

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EUGENE R. DANIELS, III,

Plaintiff,

-against-

NEW YORK STATE DIVISION OF HUMAN
RIGHTS,

Defendant.

**ANSWER TO
AMENDED COMPLAINT**

Docket No.: 07-Civ-8007 (WHP)

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Defendant New York State Division of Human Rights (“NYSDHR”), by its attorney,
ANDREW M. CUOMO, Attorney General of the State of New York, for its answer to the
amended complaint states as follows:

PARTIES

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 1 of the amended complaint.
2. Admits the allegation contained in paragraph 2 of the amended complaint and respectfully refers the Court to Article 15 (§§ 290 et seq.) of the Executive Law of the State of New York.

FACTS

3. Admits the allegation contained in paragraph 3 of the amended complaint.
4. Admits the allegations contained in paragraph 4 of the amended complaint.
5. Admits the allegation contained in paragraph 5 of the amended complaint.
6. Admits the allegation contained in paragraph 6 of the amended complaint.

7. Denies the allegations contained in paragraph 7 of the amended complaint.

8. Denies the allegations contained in paragraph 8 of the amended complaint except admits that NYSDHR wrote plaintiff a letter dated May 12, 2006.

JURISDICTION

9. The allegations contained in paragraph 9 of the amended complaint represent assertions of law and require no response. To the extent a response is required, NYSDHR denies the allegations contained in paragraph 9 of the amended complaint.

VENUE

10. The allegations contained in paragraph 10 of the amended complaint represent assertions of law and require no response. To the extent a response is required, NYSDHR denies the allegations contained in paragraph 10 of the amended complaint.

AS AND FOR A FIRST CAUSE OF ACTION

11. Defendant repeats and realleges its responses to paragraphs 1-10 as if fully set forth herein in response to the allegations contained in paragraph 11 of the amended complaint.

12. Pursuant to the Court's Decision and Order dated June 27, 2008 (a copy is annexed hereto as Exhibit A), this cause of action, paragraph 12 through and including paragraph 25 of the amended complaint, has been dismissed and therefore a response to these paragraphs is not required and defendant is not submitting an answer to these paragraphs of the amended complaint unless the Court deems otherwise.

AS AND FOR A SECOND CAUSE OF ACTION

13. Defendant repeats and realleges its responses to paragraphs 1-25 as if fully set forth herein in response to the allegations contained in paragraph 26 of the amended complaint.

14. Pursuant to the Court's Decision and Order dated June 27, 2008 (see Exhibit A), this cause of action, paragraphs 27 through 37 of the amended complaint, has been dismissed and therefore a response to these paragraphs is not required and defendant is not submitting an answer to these paragraphs of the amended complaint unless the Court deems otherwise.

AS AND FOR A THIRD CAUSE OF ACTION

15. Defendant repeats and realleges its responses to paragraphs 1-37 as if fully set forth herein in response to the allegations contained in paragraph 38 of the amended complaint.

16. Denies the allegation contained in paragraph 39 of the amended complaint but avers that plaintiff was appointed to be the Kings County Regional Director for the New York State Division of Human Rights.

17. Denies the allegations contained in paragraph 40 of the amended complaint.

18. Denies the allegation contained in paragraph 41 of the amended complaint except admits that plaintiff is an African American.

19. Denies each and every allegation contained in paragraph 42 of the amended complaint.

20. Denies each and every allegation contained in paragraph 43 of the amended complaint except admits that plaintiff did draft correspondence to the NYSDHR dated February 14, 2006 and April 14, 2006.

21. Denies each and every allegation contained in paragraph 44 of the amended complaint except admits that plaintiff did draft correspondence to the NYSDHR dated April 14, 2006.

22. Denies knowledge or information sufficient to form a belief as to the truth of the

allegations contained in paragraph 45 of the amended complaint except avers that plaintiff was found to have engaged in misconduct.

23. Denies the allegations contained in paragraph 46 of the amended complaint except avers that plaintiff was found to have sexually harassed a woman who had filed with NYSDHR a wrongful termination complaint against her former employer.

24. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47 of the amended complaint.

25. Pursuant to the Court's Decision and Order dated June 27, 2008 (see Exhibit A), this cause of action, as stated in paragraphs 48 and 49 of the amended complaint, has been dismissed and therefore a response to these paragraphs is not required and defendant is not submitting an answer to these paragraphs of the amended complaint unless the Court deems otherwise.

26. Denies the allegations contained in paragraph 50 of the amended complaint.

27. Denies the allegations contained in paragraph 51 of the amended complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

28. The amended complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

29. All of the employment decisions made by NYSDHR were made for legitimate, nondiscriminatory reasons.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

30. Plaintiff's request for damages is barred to the extent that he has failed to mitigate.

WHEREFORE, Defendant respectfully demands judgment dismissing the amended complaint and for such other and further relief as this Court deems just and proper.

Dated: New York, New York
July 17, 2008

ANDREW M. CUOMO
Attorney General of the State of New York
Attorney for Defendant

By:

/s/

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